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# Security Council

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**Security Council Committee established pursuant to resolution 1267 (1999)**

## Note verbale dated 16 April 2003 from the Permanent Mission of Bulgaria to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Bulgaria to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and on instructions of the Government of the Republic of Bulgaria has the honour to transmit herewith the supplementary implementation report, called for in paragraph 6 of Security Council resolution 1455 (2003), on the additional measures taken after the submission of the national report of the Republic of Bulgaria on the implementation of resolution 1390 (2002).

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## Annex to the note verbale dated 16 April 2003 from the Permanent Mission of Bulgaria to the United Nations addressed to the Chairman of the Committee

## Supplementary report of Bulgaria on the additional measures taken after the submission of the national report of Bulgaria on the implementation of Security Council resolution 1390 (2002)

Bulgaria continues it active cooperation with the Committee established pursuant to resolution 1267 (1999) and fulfils its international obligations in compliance with the said resolution and the others which followed it, directed at adopting measures towards suppression and prevention of financing and support for terrorism.

The country's regulatory framework, related to the implementation of measures under the said resolutions, includes:

Law on Measures for the Suppression of Financing of Terrorism, adopted on 5.2.2003, promulgated in the State Gazette (SG), No. 16 of 18.2.2003, amended in No. 31 of 4.4.2003.

Law on Measures against Money Laundering, adopted in 1998, promulgated in SG No. 85 of 24.7.1998 (as last amended and supplemented in SG No. 31 of 4.4.2003).

Penal Code, adopted in 1968, promulgated in SG No. 26 of 2.4.1968 (as last amended and supplemented in the State Gazette of 27.9.2002).

Prohibition of Chemical Weapons and Control over Toxic Chemical Substances and Their Precursors Act, adopted in 2000, promulgated in SG No. 8 of 28.1.2000 (as last amended and supplemented in SG No. 75 of 2.8.2002 effective as of 3.9.2002).

Control over Foreign Trade Activity in Arms and Potential Dual-Use Goods and Technologies Act, adopted in 1995, promulgated in SG No. 102 of 21.11.1995 (as last amended and supplemented in SG No. 75 of 2.8.2002).

The Implementing Regulation of the Control over Foreign Trade Activity in Arms and Potential Dual-Use Goods and Technologies Act was adopted by Decree of the Council of Ministers No. 274 of 29.11.2002, promulgated in SG No. 115 of 10.12.2002.

Decree of the Council of Ministers No. 39 of 27 March 2000 on implementation by the Republic of Bulgaria of Security Council resolution 1267 (1999), promulgated in SG No. 28 of 4.4.2000, amended in No. 20 of 6.3.2001, amended and supplemented in SG No. 33 of 2002.

Decree No. 53 of 4 March 2003, promulgated in SG No. 22 of 2003, updating the list of States and organizations with regard to which the Republic of Bulgaria maintains prohibitions or restrictions on sales or supplies of arms and equipment, related to them, in conformity with Security Council resolutions and decisions of the European Union and the Organization for Security and Cooperation in Europe, as approved by Decree of the Council of Ministers No. 91 of 2001.

## I. Introduction

**1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

No data has been received so far regarding activities of Osama bin Laden, al-Qa`idah, the Taliban and their associates on the territory of Bulgaria. We have no information of our own regarding their activities on territories of other States.

## II. Consolidated list

**2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure including financial supervision, police, immigration control, customs and consular authorities?**

The legal ground for systematic control of individuals, including in the Committee's consolidated list, is provided by texts containing prohibitions in the Law on Foreigners in the Republic of Bulgaria. By virtue of this Law (art. 10, para. 1, item 3) visa and entry into the country shall be denied to foreigners if there is available information that they belong to criminal groups or organizations or that they are engaged in terrorist activities, in smuggling or illegal trade in weapons, explosives, ammunition, strategic raw materials, potential dual-use goods and technologies, as well as illegal traffic of narcotics and psychotropic substances and precursors and of raw materials for production thereof.

The National Security Service is the focal point for receiving such information and notifying the border immigration authorities about individuals on the consolidated list.

Persons included in the consolidated list are registered in the Border Control System. If persons on the consolidated list arrive at a border checkpoint, the National Service Border Police officials detain them and inform the National Security Service.

**3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

When data on individuals is entered and processed difficulties may arise because of its incompleteness, for instance, missing date of birth, place of birth, passport number, social insurance number, or difficulties in transcribing Arabic names in the English language.

**4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Until now no individuals or entities included in the consolidated list have been identified on the territory of this country.

In the course of the joint inspections carried out by the Bulgarian National Bank (the central bank of Bulgaria, which is responsible for bank supervision) and the Financial Intelligence Agency, no accounts opened or presence of funds of individuals designated in the list have been detected. The information obtained in

the course of these joint inspections is processed and shared by the Financial Intelligence Agency with relevant foreign partners. The Bulgarian National Bank and the Financial Intelligence Agency have no additional information which could be added to the existing list.

**5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.**

No data is available on such individuals.

**6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.**

No lawsuit has been brought or legal proceedings initiated against the official authorities in Bulgaria.

**7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Listed individuals have not been identified as nationals or residents of Bulgaria. No information is available about individuals not already included in the list.

**8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.**

On 13 September 2002, the National Assembly adopted an Act Amending and Supplementing the Penal Code, which provided for special penalties for terrorism, (art. 108a, para. 1) and financing of terrorism (art. 108a, para. 2); sanctions for establishing, leadership and participation in terrorist groups (art. 109), preparation for commitment of terrorism (art. 110), manifest incitement to commit terrorism (art. 320, para. 2), and threat of commitment of terrorism (art. 320a); confiscation of funds for financing of terrorism (art. 108a, para 3), as well as confiscation, in part or in full, of property of perpetrators of terrorist crimes and of persons financing their activities (art. 114, para. 2).

Moreover, in accordance with the text of article 356b of the Penal Code, which had been in effect before the changes of 2002, any foreign citizen who prepares on the territory of Bulgaria to commit abroad the respective crimes (which could also represent terrorist acts — see article 356a) was to be imprisoned for up to five years. In case an organization or a group is established with the same objective, the sanction is imprisonment from one to six years and, for their founders and leaders from three to eight years (art. 356b, para. 2). In order to be rendered liable to penal responsibility under these provisions, the respective crimes of a general nature need not have been committed or attempted to be committed.

No al-Qa'idah training camps exist on the territory of Bulgaria and no data is available on Bulgarian or foreign nationals with residence status belonging to the terrorist organization and undergoing training in al-Qa'idah training camps outside this country. The relevant authorities of the Ministry of the Interior in accordance with their legally prescribed tasks and activities are performing operational monitoring and control over the risk categories of individuals and entities in order to prevent them from engaging in the above activities.

## III. Financial and economic asset freeze

**Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.**

**9. Please describe briefly:**

- **The domestic legal basis to implement the asset freeze required by the resolutions above.**

In compliance with resolution 1267, the Decree of the Council of Ministers No. 39 of 27 March 2000 was adopted, and was subsequently amended and supplemented in compliance with resolutions 1333 (2001) and 1390 (2002).

On 5 February 2003 the National Assembly adopted the Law on Measures for the Suppression of Financing of Terrorism. This Law was promulgated in SG No. 16 of 18 February 2003 and entered into force on 21 February 2003.

The goal of the Law on Measures for the Suppression of Financing of Terrorism, as defined in its article 2, is to prevent and uncover activities of natural persons, legal persons, groups and organizations aimed at financing terrorism. The Act defined the measures against financing of terrorism, the organization and control over their enforcement and the administrative penal provisions in case of violation. The provisions of the said Law are in compliance with the measures under Security Council resolution 1373 (2001) and Council Regulation (EU) No. 2580/2001 of 27 December 2001 regarding the specific restrictive measures in the combat against terrorism, targeted at certain natural and legal persons.

One of the measures envisaged in the said Act (art. 3, para 1, item 1) is to block financial assets and other property. This measure has the effect of a restraint or injunction (art. 3, para. 3). According to article 6 of the Act, all financial assets and other property belonging to individuals on the list are to be frozen, regardless of whose possession they are in.

The measures under the Act, including the freeze of property, are applicable with regard to those natural and legal persons that are designated in a list approved by the Council of Ministers (art. 5, para. 1). Based on proposals of the Minister of the Interior or the Chief Prosecutor, the Council of Ministers adopts, supplements

and amends the list of natural persons, legal persons, groups and entities with regard to which the measures under this Act shall apply.

At present, a draft decision of the Council of Ministers is undergoing coordination pursuant to article 58 of the Rules of Organization of the Council of Ministers for adopting a list under Article 5 of the Law on Measures for the Suppression of Financing of Terrorism. The draft national list will define natural persons, legal persons, groups and entities designated by the Security Council as related to terrorism, or with regard to which sanctions for terrorism have been imposed by Security Council resolutions, as well as persons, groups and entities which have been included in the list of the Council of the European Union, with regard to which specific restrictive measures are applied by virtue of Regulation No. 2580/2001 of 27 December 2001. The list shall be promulgated in the State Gazette.

- **Any impediments under your domestic law in this context and steps taken to address them.**

At present, no impediments have been found in the course of implementation of the legislative framework and no steps were taken for its improvement.

**10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

On 21 March 2003 the National Assembly adopted an Act Amending and Supplementing the Law on Measures against Money Laundering.

These amendments aim at achieving full conformity with European norms in the combat against money laundering and, more specifically, with Council Directive 91/308/EEC for prevention of the use of the financial system for money laundering and Directive 2001/97/EC of the European Parliament and the Council of 4 December 2001, which amended Directive 91/308/EEC. The amendments to the said Act created conditions for effective interaction and exchange of information between the Financial Intelligence Agency, the country's banking system and the relevant authorities of the Ministry of the Interior, in suppression of money laundering, which has a significant importance also for the effective prevention of financing of terrorism.

The competencies of the Financial Intelligence Agency, aimed at prevention and limitation of terrorist acts, are clearly defined in specific provisions of the Law on Measures for the Suppression of Financing of Terrorism, related to the general competency of the Financial Intelligence Agency, defined in the Law on Measures against Money Laundering. By means of the Act Amending and Supplementing the Law on Measures against Money Laundering and in full conformity with Directive 2001/97/EC, the Financial Intelligence Agency was assigned a regulated broad access to information, allowing also an opportunity for conducting an even more comprehensive financial intelligence analysis also related to the Agency's competencies in preventing financing of terrorism.

In accordance with Decree of the Council of Ministers No. 50/2001 and in compliance with resolutions 1267 (1999), 1333 (2000), 1390 (2001) and 1455

(2003), in case of detection of financial resources of individuals and entities from the respective lists, the Bulgarian National Bank orders a freeze of these funds.

As of May 2002, the Bulgarian National Bank and the Financial Intelligence Agency on 12 occasions have circulated among the commercial banks on the territory of Bulgaria lists for implementing joint checks for accounts opened and the presence of funds of individuals designated in the lists of over 90 individuals and organizations. As of today, answers to 10 of these letters have been received, and the individuals and entities designated in the lists have not been registered as clients of the banks and have not been beneficiaries of bank transfers. The banks have not yet completed the checks following the last two letters.

**11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

The steps under the Law on Measures for the Suppression of Financing of Terrorism are mandatory for all natural and legal persons, including banks and other financial institutions, which are obliged to notify without delay the Minister of the Interior and the Minister of Finance of their implementation (art. 3, para. 2).

Moreover, in accordance with article 9 of the Law on Measures for the Suppression of Financing of Terrorism, persons under article 3, paragraphs 2 and 3, of the Law on Measures against Money Laundering (including banks and other financial institutions) are obliged in case of doubt to notify also the Financial Intelligence Agency (para. 3) and to introduce into their internal rules criteria for the identification of suspicious operations, transactions and clients aiming at the financing of terrorism (para. 4). The connection between the competencies of the Financial Intelligence Agency under the two Acts ensures maximum efficiency in relation to suppression of financing of terrorism.

In order to facilitate the implementation of the provisions of article 9, paragraphs 4 and 2, of the Transitional and Concluding Provisions of the Law on Measures for the Suppression of Financing of Terrorism, the Financial Intelligence Agency prepared and will provide to the reporting persons (within four months of the entry into force of the Act) methodological guidance for developing criteria for the detection of financing of terrorism to be included in the internal rules pursuant to article 16, paragraph 1, of the Law on Measures against Money Laundering.

The competencies of the Financial Intelligence Agency set out in the Law on Measures against Money Laundering with regard to regulated access and exchange of information with foreign financial intelligence units and law enforcement bodies are further developed with regard to exchange of information on financing of terrorism. Article 14 of the Law on Measures for the Suppression of Financing of Terrorism provides for an opportunity for the Financial Intelligence Agency, on its own initiative and upon receipt of requests, for exchange of information pursuant to the Law on Measures for the Suppression of Financing of Terrorism with the respective international bodies and services of other States on the grounds of international agreements or reciprocity.

**12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002).**

To date no freezing of bank deposits or other assets located in Bulgarian banks has taken place.

**13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

Given the fact that until the present no assets have been blocked or frozen, no actions have been undertaken unblocking or releasing bank accounts or other assets located in Bulgarian banks.

**14. Pursuant to resolution 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

Upon receipt from the Financial Intelligence Agency or from another institution of lists of natural or legal persons to be inspected, the Bulgarian National Bank as the bank supervisory institution in Bulgaria circulates without delay among the banks enquiries regarding the presence of accounts opened and transfers of monetary funds, reflected in them, in connection with the persons designated in the said lists. The Central Bank possesses powers, determined in the Banking Act, which authorize it to receive information about operations and outstanding balance on accounts of clients of the banks. Within a short period of time the banks carry out checks in their information systems and return information to the Central Bank.

When information of such a nature, obtained through specific methods and means by the competent services of the Ministry of the Interior, is received it is submitted to the Prosecutor's Office for an opinion according to its competency.

- **Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

In accordance with article 9, paragraph 3, of the Law on Measures for the Suppression of Financing of Terrorism, commercial banks, being persons obligated under article 3, paragraph 2.1, of the Law on Measures against Money Laundering,

must notify in case of suspected financing of terrorist activity the Financial Intelligence Agency, which then exercises its powers in accordance with the Law on Measures against Money Laundering — to collect additional information from persons obligated under article 3, paragraphs 2 and 3, as well as from international cooperation and from on-site inspections. At the end of March 2003, in order to facilitate the implementation of the provisions of article 9, paragraphs 4 and 2 of the Transitional and Concluding Provisions of the Law on Measures for the Suppression of Financing of Terrorism, the Financial Intelligence Agency prepared and will provide to the reporting persons methodological guidance for developing criteria for detection of financing of terrorism to be included into the internal rules pursuant to article 16, paragraph 1, of the Law on Measures against Money Laundering. The competent bodies, having received information in connection with the implementation of the Law on Measures for the Suppression of Financing of Terrorism, preserve the anonymity of persons who have provided it. Information collected under this Act is used only for its purposes or for countering crime.

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**

Apart from commercial banks, persons obligated under article 3, paragraphs 2 and 3, of the Law on Measures against Money Laundering also include insurance companies, investment companies, persons organizing unofficial securities markets, pension funds, legal persons with which credit unions have been organized, postal services which accept or receive money or other valuables, leasing companies, persons involved in gambling.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

In accordance with the Currency Act, persons which are not banks and are professionally engaged in extraction, processing and transactions in precious metals and stones must register with the Ministry of Finance and comply with requirements, set in an ordinance of the Council of Ministers. When importing and exporting precious metals and stones, these must be declared before the customs authorities.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — *hawala*, as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Non-profit organizations are also obligated persons under article 3, paragraph 2.17, of the Law on Measures against Money Laundering and as such must upgrade their internal rules under article 16 of that Law by adding measures against financing of terrorism.

Currently no regulatory mechanism for alternative payment systems such as *hawala* has been developed.

## IV. Travel ban

**15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

The National Service Border Police implements the border control at entry and exit of Bulgarian and foreign nationals from the territory of this country and the Police National Service exercises administrative control over the stay of foreigners in Bulgaria.

The terms and procedures are prescribed in the Law on Foreigners in the Republic of Bulgaria and the travel bans are determined in article 10, paragraph 1, items 1-15.

The principles of the regime of prohibitions related to the denial of visa, of entry into or exit from this country including relatives to individuals designated in the consolidated list, are:

Paragraph 1.1 — activities of individuals whereby the security of interests of the Bulgarian State are endangered.

Paragraph 1.3 — information that the individuals belong to criminal groups or organizations or that they engage in terrorist activities, smuggling or illegal trade in arms, explosives, ammunition, strategic raw materials, potential dual-use goods and technologies, as well as illegal traffic in narcotic and psychotropic substances and precursors and raw materials for production thereof.

Paragraph 1.7 — the individuals have attempted to enter this country or to transit through it using false or forged documents.

Paragraph 1.14 — the individuals have been included in the information database of foreigners undesirable in this country maintained by the Ministry of the Interior and the Ministry of Foreign Affairs.

The information databases which are used in the Ministry of the Interior also in regard to the said category of individuals, according to Security Council resolution 1455 (2003), are those of the Border Control and Administrative Services to Foreign Citizens.

The Ministry of the Interior Act specifies the terms for providing data regarding individuals found to belong to al-Qa'idah, the possibilities for expelling them and for handing them over to services of other States, based on the international agreements concluded.

**16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

The listed individuals are entered into the border control system and are not allowed to enter this country.

Individuals designated in the consolidated list are entered into the restrictive database of undesirable foreigners according to the procedure of article 21a of the Law on Foreigners in the Republic of Bulgaria at the Ministry of Foreign Affairs.

**17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?**

The list is updated on a quarterly basis, in conformity with its updates by the Security Council.

Immediately upon receipt each list of individuals on the consolidated list is entered into the Border Control System. The required opportunities exist for electronic search of information regarding such individuals.

**18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

Until the present no individuals designated in the consolidated list have been detected at any of Bulgaria's border checkpoints.

**19. Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?**

Individuals designated in the consolidated list are entered into the restrictive database of undesirable foreigners under the procedure of article 21a of the Law on Foreigners in the Republic of Bulgaria at the Ministry of Foreign Affairs.

## V. Arms embargo

**20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

The Control over Foreign Trade Activity in Arms and Potential Dual-Use Goods and Technologies Act adopted in 1995, as amended and supplemented in July 2002, provides that the Council of Ministers have the power to introduce restrictions and impose bans on conduct of foreign trade activity in arms and potential dual-use goods and technologies, in cases when:

1. Such activity poses a threat to the national security, economic and foreign policy interest of Bulgaria, as well as the strengthening of international peace and security and the fulfilment of international obligations of Bulgaria.

2. The goods and technologies are intended or could be used for the creation, production, processing, development, control, maintenance, storage and proliferation of weapons of mass destruction.

3. Restrictions exist as follows:

(a) Imposed by the Security Council;

(b) Resulting from international agreements or from the membership of Bulgaria in international organizations, including international export control regimes, to which it is a party;

(c) Resulting from Bulgaria's joining acts, joint actions and common positions of the European Union;

(d) Resulting from Bulgaria's joining acts of international organizations and export control regimes of which it is not a full member.

4. The arms and potential dual-use goods and technologies are designated for a country, on the territory of which hostilities are taking place or which is engaged in military conflict.

The above-mentioned Act provides for adopting and updating a list of the States and organizations with regard to which Bulgaria maintains a ban or restrictions on sales and supplies of arms and equipment, related to them, in conformity with Security Council resolutions and decisions of the European Union and the Organization for Security and Cooperation in Europe. Such a list was adopted in April 2001 and was subsequently updated in July 2002 and March 2003. The list is in full conformity with the similar EU list. Item 1 of the Bulgarian List of States provides for Measures for Combating International Terrorism (without Territorial Limits) and thereby restrictions were introduced, as envisaged by Security Council resolutions 1333 (2000) and 1390 (2002) as well as by the Declaration of the Ministers of Foreign Affairs of the European Community of 27 January 1986 for prohibition of exports of arms or other military equipment to States supporting terrorism and by EU common position 2002/402/CFSP of 27 May 2002 on banning direct and indirect supplies, sales and transfers of weapons and related equipment of any kind, including arms and ammunition, military machinery and equipment, paramilitary equipment and spare parts to Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups and entities associated with them.

In addition, it must be noted that the amendments to the Law have provided for licensing of Bulgarian and foreign natural and legal persons wishing to engage as brokers in foreign trade transactions from and to the territory of Bulgaria. It was also envisaged that only reliable and economically viable subjects would be eligible to be licensed. Among the criteria for determining reliability are the requirements that the manager, the management and control bodies of a commercial company or a natural person have no prior convictions by sentences in force of crimes of a general nature, and that no data should be available indicating that the manager, the management and control bodies of a commercial company or the natural person(s) directly involved in foreign trade activities in arms would pose a threat to the national security, economic and foreign policy interests of Bulgaria, as well as the strengthening of international peace and security and the fulfilment of international obligations of Bulgaria. Given the criteria thus defined, if an individual or a company is included in a list of terrorists or supporters of terrorists or it could be proved that they engage in such activities, it would be practically impossible for them to obtain the right to engage in foreign trade of arms or potential dual-use goods and technologies from and to the territory of Bulgaria.

In addition to the licensing procedure, the control bodies exercise further control by the procedure for issuing permits for each individual transaction, and only licensed companies can act as exporters, importers or brokers.

Under Bulgarian legislation, exporting companies must include in their foreign trade contracts a clause prohibiting transfer of the goods to a third party without the consent of Bulgarian control bodies.

In order to verify the end-user/end use, the applicant company must submit to the control body the original of the end-user certificate/international import certificate. The control bodies have the power to verify the submitted certificate through diplomatic channels — the Embassies of Bulgaria in other countries — in

order to verify the issuance of the document. An additional requirement for the exporting companies is to submit a delivery verification certificate not later than three months after completing delivery. At this stage of control physical checks are also conducted of the delivery in the country of the end user.

The above-mentioned Act provides for administrative or penal sanctions for violations of its provisions. Natural persons engaging in foreign trade activities, including as brokers, in arms and/or potential dual-use technologies, who fail to fulfil their obligations under the law, are punishable by fines, and legal persons by property sanctions, which have been substantially increased by the last amendments to the law.

Bulgaria is a member of the Wassenaar Arrangement, the Australia Group, the Nuclear Suppliers Group and the Zangger Committee and fully applies the criteria of the Missile Technologies Control Regime. The regular exchange of information within the export control regimes contributes to the ongoing and timely updating of information related to the activities of terrorists or terrorist groups, as well as on the types of weapons of interest to them.

.Bulgarian control bodies maintain a watchlist to support the functioning of customs and control bodies.

**21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The violation of the arms embargo constitutes a crime within the meaning of the Penal Code, when acts have been committed as follows:

Article 233 incriminates engagement in foreign trade in potential dual-use goods and technologies without the respective permit; potential dual-use goods and technologies which have been the object of crime are subject to confiscation in favour of the State.

Article 337 (trade, import, export without permit or at variance with the issued permit of explosives, firearms, chemical, biological or nuclear weapons or ammunition).

Article 339 (acquisition, holding, transfer without permit of explosives, firearms, chemical, biological or nuclear weapons or ammunition).

Article 242, paragraph 1.d (qualified smuggling on cross-border traffic without the knowledge and permission of customs authorities of high-impact or toxic substances, explosives, arms, ammunition, nuclear materials, installations or other sources of ionizing radiation).

**22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

As described under item 20, only reliable and economically viable subjects are eligible to be licensed, and they must meet a number of criteria regarding reliability and stability; in practice it is impossible to issue licences to companies which are in any way related to terrorist activities or support or finance such activities. The

membership of the Interministerial Council, which issues the licences for the right of foreign trade activity and brokerage activity, is composed of representatives of the Ministry of Defence, the Ministry of the Interior, the Ministry of Foreign Affairs, the General Staff of the Bulgarian Army, the National Intelligence Service, and the Ministry of Finance (the Financial Intelligence Agency and the National Customs Agency being part of its structure). Such a broad range of agencies makes it possible to collect information, sufficient in terms of volume and accuracy, regarding the candidates applying for such a licence.

**23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated?**

As stated in response to item 20, under Bulgarian legislation exporting companies are obliged to include in their foreign trade contracts a clause prohibiting transfer of goods to a third party without the consent of Bulgarian control bodies.

In order to verify the end-user/end use, the applicant company must submit to the control body the original of the end-user certificate/international import certificate. The control bodies have the power to verify the submitted certificate through diplomatic channels — the Embassies of Bulgaria in other countries — in order to verify the issuance of the document. An additional requirement for the exporting companies is to submit a delivery verification certificate not later than three months after completing delivery. At this stage of control physical checks are also conducted of the delivery in the State of the end-user.

Owing to the exchange of information on a bilateral and multilateral basis, as well as within the export control regimes, Bulgaria possesses current information regarding individuals, companies, brokers and destinations giving rise to concern. Most often these are individuals, companies, brokers and States which support terrorism and countries, which are used as points of redirection towards terrorist organizations. In the practice of Bulgarian control bodies in recent years a number of transactions were rejected, owing to doubts on the regularity of the documents submitted.

In cases of non-compliance with the requirements of articles 12 and 13 of the Control over Explosives, Firearms and Ammunition Act, the control over generally dangerous goods bodies in this country may withdraw the licences of sole proprietors and companies for engaging in activities involving generally dangerous goods. The restrictive measures envisaged in these legislative norms are a guarantee for prevention of supply of firearms, ammunition, explosives and other generally dangerous goods by Bulgarian natural and legal persons to international terrorist structures and organizations.

## VI. Assistance and conclusion

**24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

As one of the countries enforcing a modern export control legislation, which meets some of the most stringent criteria in this field, Bulgaria stands ready to share

its experience with other States wishing to upgrade their legislative framework and first of all with the countries of the Balkan region.

**25. Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

The Taliban/al-Qa`idah sanctions regime is implemented in full, in conformity with the principles of Bulgarian and relevant international law. No specific assistance is required for the implementation of the above-mentioned sanctions regime.

**26. Please include any additional information you believe pertinent.**

The Bulgarian legislation has been evaluated to ensure that the requirements of resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003) have been fully met.

Annexes*

1. Law on Measures for the Suppression of Financing of Terrorism
2. Law on Measures against Money Laundering
3. Extract from the Penal Code.

* The annexes are on file with the Secretariat, room S-3055, and are available for consultation.